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11

12 Attorneys for Plaintiff  
13 STACY BROWN  
14

15  
16 **UNITED STATES DISTRICT COURT**  
17  
18 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
19

20 STACY BROWN an individual,  
21  
22 Plaintiff,  
23

24 v.  
25

26 CITY OF ANITIOCH, a municipal  
27 corporation; RICK SMITH, individually and  
28 in his official capacity as a police officer for  
the CITY OF ANTIOCH; RYAN  
MCDONALD, individually and in his official  
capacity as a police officer for the CITY OF  
ANTIOCH; STEVEN AIELLO, individually  
and in his official capacity as a police officer  
for the CITY OF ANTIOCH; CASEY  
BROGDON, individually and in his official  
capacity as a police officer for the CITY OF  
ANTIOCH; KEVIN TJAHIADI, individually  
and in his official capacity as a police officer  
for the CITY OF ANTIOCH; AURELIANO

Case No.:

COMPLAINT FOR DAMAGES

(42 U.S.C §§ 1983; and pendant tort  
claims)

JURY TRIAL DEMANDED

1 MENDES, individually and in his official  
2 capacity as a police officer for the CITY OF  
3 ANTIOCH; THOMAS SMITH, individually  
4 and in his official capacity as a police officer  
5 for the CITY OF ANTIOCH; DOES 1-10,  
6 individually and in their official capacity as a  
7 police officers for the CITY OF ANTIOCH

8 Defendants.

### 9 **INTRODUCTION**

10 1. This is an action for damages brought pursuant to Title 42 U.S.C §§1983  
11 and 1988, the Fourth and Fourteenth Amendments to the United States Constitution,  
12 under California Civil Code §§51.7 and 52.1, and under the common law of California.  
13 These claims arise out of the wrongful arrest, detention, and vicious mauling of STACY  
14 BROWN on August 15, 2015. This action is against RICK SMITH, RYAN  
15 MCDONALD, THOMAS SMITH, STEVEN AIELLO, CASEY BROGDON, KEVIN  
16 TIAHJADI, AURELILANO MENDES, and DOES 1-10 of the Antioch Police  
17 Department.

### 18 **JURISDICTION**

19 2. This action arises under Title 42 of the United States Code, Section  
20 1983. Title 28 of the United States Code, Section 1331 and 1343 confers jurisdiction  
21 upon this Court. The unlawful acts and practices alleged herein occurred in the City of  
22 Antioch, Contra Costa County, California, which is within this judicial district.  
23

24 ///

25 ///

**PARTIES**

3. At all times mentioned herein, STACY BROWN, (hereinafter “Plaintiff”), has been and is a resident of Antioch, California, and is a United States Citizen.

4. Defendant CITY OF ANITIOCH (hereinafter “CITY”) is and at all times herein mentioned is a municipal entity duly organized and existing under the laws of the State of California. Under its authority, CITY operates the City of Antioch Police Department.

5. At all times mentioned herein, Defendant, RICK SMITH, (hereinafter “SMITH”), was a POLICE OFFICER for the ANTIOCH POLICE DEPARTMENT, and is sued individually and in his official capacity.

6. At all times mentioned herein, Defendant, RYAN MCDONALD, (hereinafter “MCDONALD”), was a POLICE OFFICER for the ANTIOCH POLICE DEPARTMENT, and is sued individually and in his official capacity.

7. At all times mentioned herein, Defendant, THOMAS SMITH, (hereinafter “T. SMITH”), was a POLICE OFFICER for the ANTIOCH POLICE DEPARTMENT, and is sued individually and in his official capacity.

8. At all times mentioned herein, Defendant, STEVEN AIELLO, (hereinafter “AIELLO”), was a POLICE OFFICER for the ANTIOCH POLICE DEPARTMENT, and is sued individually and in his official capacity.

9. At all times mentioned herein, Defendant, CASEY BROGDON, (hereinafter “BROGDON”), was a POLICE OFFICER for the ANTIOCH POLICE DEPARTMENT, and is sued individually and in his official capacity.



1 18. Plaintiff discovered later that Ulysses Davis was on the U.S. Marshalls  
2 Most Wanted list with outstanding warrants for attempted homicide and weapons  
3 violations, including the use of an assault rifle.

4 19. Unfamiliar with the name Ulysses Davis at the time, and in fear for his  
5 life, Plaintiff drove away from the scene. He pulled into a nearby gas station, parked  
6 his vehicle and attempted to regain his composure.

7 20. Still in fear for his life, Plaintiff exited the vehicle with his female  
8 companion and sought sanctuary at the neighboring New Life Free Will Baptist Church.

9 21. When it became clear that the church was locked and no one was inside,  
10 Plaintiff and his female companion walked to the rear of the building where they sat for  
11 a few moments before Defendant officers from the Antioch Police Department re-  
12 engaged with Plaintiff.

13 22. With their guns pointed at Plaintiff, officers ordered him to the ground.  
14 Plaintiff complied and lay face down on the ground immediately.

15 23. At this time, one of the Defendant officers approached Plaintiff and  
16 secured a handcuff around his right wrist. Before his left wrist could be securely fastened  
17 into the handcuffs, Defendant MCDONALD allowed his police canine "Leroy" enough  
18 slack on his leash that Leroy was able to make physical contact with Plaintiff.

19 24. Without warning, Leroy forcefully latched onto Plaintiff's right leg  
20 tearing into his flesh. As Plaintiff scam out in pain, Leroy disengaged, releasing  
21 Plaintiff's right leg and attacked Plaintiff's left arm. Leroy remained engaged and  
22 latched onto Plaintiff's arm for the next five minutes. Plaintiff recalls Leroy loosening  
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1 his vicious grip and re-acquiring his bite at least five times, as he lay helpless and  
2 screaming on the ground.

3 25. Plaintiff suffered multiple injuries due to the negligent and unwarranted  
4 attack. Plaintiff required one hundred and fifty six (156) stitches and twenty-six (26)  
5 staples to treat his arm injury. A skin graft was also required to repair the severe damage  
6 to Plaintiff's arm. Another seven (7) stitches were placed in Plaintiff's right leg.  
7

### 8 **DAMAGES**

9 26. Plaintiff suffered wrongful arrest, wrongful detention and substantial physical  
10 injuries. As a consequence of Defendants' violations of Plaintiff's federal civil rights under 42  
11 U.S.C. §1983 and the Fourteenth Amendment, Plaintiff was physically, mentally, and emotionally  
12 injured and damaged as a proximate result of the excessive force used against him.  
13

14 27. Plaintiff found it necessary to engage the services of private counsel to  
15 vindicate his rights under the law. Plaintiff is therefore entitled to an award of attorneys' fees  
16 and/or costs pursuant to statute(s) in the event that he is the prevailing parties in this action under  
17 42 U.S.C. §§§§ 1983, 1985-86 and 1988. Plaintiff is also entitled to punitive damages under 42  
18 U.S.C. §§§§ 1983, 1985-86 and 1988.  
19

### 20 **FIRST CAUSE OF ACTION**

21 **(Violation of Fourth Amendment of the United States Constitution)**  
22

23 **(42 U.S.C. §1983)**

24 **(Against MCDONALD and DOES 1-10)**

25 28. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 27 of  
26 this Complaint.  
27  
28



1 \$4,000.00 and an award of his reasonable attorney's fees pursuant to Civil Code §  
2 52(a).

3 35. Under the provisions of California Civil Code §52(b), Defendants are liable  
4 for punitive damages for each violation of Civil Code §52.1, reasonable attorney's fees and an  
5 additional \$25,000.00.

6  
7 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

8  
9 **THIRD CAUSE OF ACTION**

10 **(Intentional Infliction of Emotional Distress)**

11 (Against All Defendants Herein)

12 36. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 35 of this  
13 Complaint.

14 37. Defendants' above-described conduct was extreme, unreasonable and  
15 outrageous.

16 38. In engaging in the above-described conduct, defendants intentionally  
17 ignored or recklessly disregarded the foreseeable risk that plaintiff would suffer extreme emotional  
18 distress as a result of defendants' conduct.

19  
20 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

21  
22 **FOURTH CAUSE OF ACTION**

23 **(Monell)**

24 **(42 U.S.C. § 1983)**

25 (Against Defendant CITY and DOES 1-10)



1           39. Plaintiff hereby re-alleges and incorporates by reference herein  
2 paragraphs 1 through 38 of this Complaint.

3           40. As against Defendant CITY and/or DOES 1-10 and/or each of them,  
4 individually and/or in their capacities as official policy-maker(s) for CITY,  
5 including the Chief of Police. Plaintiff further alleges that the acts and/or  
6 omissions alleged in the Complaint herein are indicative and representative of a  
7 repeated course of conduct by members of Defendant CITY tantamount to a  
8 custom, policy or repeated practice of condoning and tacitly encouraging the  
9 abuse of police authority, and disregard for the Constitutional rights of citizens,  
10 such as Plaintiff.

11  
12           41. Plaintiff is informed and believes and thereon alleges that the acts  
13 and/or omissions alleged herein are the proximate result of a custom, policy,  
14 pattern or practice of deliberate indifference by Defendant CITY and DOES 1-10  
15 and/or each of them, to the repeated violations of the constitutional rights of  
16 citizens by Antioch Police Department officers.

17  
18           42. The aforementioned deliberate indifference, customs, policies or  
19 practices of Defendant CITY and DOES 1-10, and/or each of them, resulted in  
20 the deprivation of the constitutional rights of the plaintiff, including, but not  
21 limited to the following:

- 22  
23           a. The right not to be deprived of life, liberty, or property without  
24           Due Process of Law;
- 25           b. The right to be free from unreasonable searches and/or seizures;  
26           and/or  
27  
28

- c. The right to the equal protection of the law;
- d. The right to enjoy civil and statutory rights;
- e. Said rights are substantive guarantees under the Fourth and/or Fourteenth Amendments to the United States Constitution.

43. As a result of the violation of their constitutional rights by Defendants CITY and/or DOES 1-10, Plaintiff sustained the injuries and/or damages as alleged heretofore in this Complaint.

WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

### **FIFTH CAUSE OF ACTION**

#### **(Negligence)**

(Against MCDONALD and DOES 1-10)

44. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 43 of this Complaint.

45. By the above-described acts incorporated herein, Defendant MCDONALD and DOES 1-10, inclusive, had notice of Plaintiff's civil rights and Fourth Amendment protections against unreasonable searches and seizures, including the use of excessive force.

46. Defendant MCDONALD's actions were negligent and were not done with due care and were the legal cause of Decedent's injuries and damages alleged herein.

47. Defendant MCDONALD's actions were done while in the course and scope of his employment as an officer for the CITY OF ANITOCH, and as

1 such, Defendant CITY OF ANITOCH is vicariously liable for Defendant  
2 MCDONALD's negligence.

3 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.  
4

5 **SIXTH CAUSE OF ACTION**

6 **(Violation of CALIFORNIA CIVIL CODE §51.7)**

7 (Against all Defendants herein)

8  
9 48. Plaintiff re-alleges and incorporates by reference herein paragraphs 1 through 47  
10 of this complaint.

11 49. Plaintiff is informed and believes and thereon alleges that the conduct of  
12 Defendants was motivated by prejudice against Plaintiff STACY BROWN. Plaintiff is readily  
13 recognizable as African-American. In engaging in such conduct, Defendant violated decedent's  
14 rights under California Civil Code §51.7 to be free from violence, or intimidation by threat of  
15 violence committed against him because of his race.  
16

17 50. Under the provisions of California Civil Code §52(b), Defendants are liable for  
18 punitive damages for each violation of Civil Code §51.7, reasonable attorney's fees and an  
19 additional \$25,000.00.  
20

21 51. As a proximate result of Defendants wrongful conduct, decedent suffered  
22 damages as hereinafter set forth.

23 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.  
24

25 **JURY DEMAND**

26 52. Plaintiff hereby demands a jury trial in this action.  
27  
28

**PRAYER**

WHEREFORE, Plaintiff prays for relief, as follows:

1. For general damages in a sum to be determined according to proof;
2. For special damages, including but not limited to, past, present and/or future wage loss, income and support, medical expenses and other special damages in a sum to be determined according to proof;
3. For punitive damages and exemplary damages in amounts to be determined according to proof;
4. For reasonable attorney's fees pursuant to 42 U.S.C. §1988;
5. For cost of suit herein incurred; and
6. For such other and further relief as the Court deems just and proper.

Dated: September 2, 2016

**LAW OFFICE OF JOHN BURRIS**

/s/ John L. Burris  
John L. Burris  
Attorney(s) for Plaintiff

/s/ DeWitt M. Lacy  
DeWitt M. Lacy  
Attorney(s) for Plaintiff